

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

ILLINOIS COMMERCE COMMISSION

On Its Own Motion

V

No. 10-0279

MIDWESTERN TELECOMMUNICATIONS,
INCORPORATED

Citation to determine whether)
Midwestern Telecommunications,)
Incorporated, possesses the)
requisite managerial resources)
to provide intrastate)
telecommunications services)
within the State of Illinois)
and whether penalties should be)
assessed for failure to comply)
with reporting requirements.)

Chicago, Illinois

May 4, 2010

Met pursuant to notice at 10:30 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

1 APPEARANCES:

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3 MR. MATTHEW L. HARVEY and
4 MS. NICOLE T. SARA
160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601
appeared for Commission Staff.

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7 MR. JERRY HOLT
65 East 16th Street
Chicago Heights, Illinois 60411
8 appeared for the Respondent.

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11 ALSO PRESENT TELEPHONICALLY:

12 MR. RUSS MURRAY and
13 MS. KATHY STEWART
Commission Staff

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22 SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi, CSR

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I N D E X

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| <u>Witnesses:</u> | <u>Dir.</u> | <u>Crx.</u> | <u>Re-</u> <u>dir.</u> | <u>Re-</u> <u>crx.</u> | <u>By</u> <u>Examiner</u> |
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E X H I B I T S

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| <u>APPLICANT'S</u> | <u>FOR IDENTIFICATION</u> | <u>IN EVIDENCE</u> |
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1 JUDGE RILEY: Pursuant to the direction
2 of the Illinois Commerce Commission I call
3 Docket 10-0279. This is the Illinois Commerce
4 Commission On Its Own Motion verses Midwestern
5 Telecommunications, Incorporated. Citation to
6 determine whether Midwestern Telecommunications,
7 Incorporated, possesses the requisite managerial
8 resources to provide intrastate telecommunications
9 services within the State of Illinois and whether
10 penalties should be assessed for failure to comply
11 with reporting requirements.

12 And, again, appearing on behalf of
13 Commission Staff?

14 MR. HARVEY: Appearing for the Staff of the
15 Illinois Commerce Commission, Matthew L. Harvey and
16 Nicole T. Sara, 160 North LaSalle Street
17 Suite C-800, Chicago, Illinois 60601

18 JUDGE RILEY: Thank you.

19 And appearing for Midwestern
20 Telecommunications?

21 MR. HOLT: Jerry Holt. 65 East 16th Street,
22 Chicago Heights, Illinois 60411.

1 MR. HARVEY: I would note for Mr. Holt's benefit
2 that we have Commission Staff members on the
3 telephone so that he's aware of that fact, those
4 persons are Russ Murray and Kathy Stewart.

5 JUDGE RILEY: All right. Thank you.

6 And at this time, this matter was
7 called so that Midwestern could show cause why it
8 has -- let me say that Staff has filed a report
9 saying that there are certain reporting requirements
10 that have not been met by Midwestern
11 Telecommunications. And the purpose of this
12 proceeding is to determine from Midwestern whether
13 or not Staff's report is accurate and if those
14 reports have not been filed, why not?

15 Can you enlighten us at all,
16 Mr. Holt?

17 MR. HOLT: Sure.

18 Staff report is accurate insofar as
19 when it was issued the reports had not been filed.
20 As to why they were not file, it's a simple
21 bookkeeping error. The person who typically
22 generated those reports over time -- and if you look

1 prior to the time we stopped filing, we filed them
2 on a regular basis.

3 JUDGE RILEY: Let me interrupt for just a
4 second.

5 What is your position with Midwestern
6 Telecommunications?

7 MR. HOLT: I'm President.

8 JUDGE RILEY: You are the President. Okay.
9 Thank you.

10 MR. HOLT: Should I continue?

11 JUDGE RILEY: By all means.

12 MR. HOLT: So the person who generated those
13 reports over the past 8 years or 10 years, however
14 long they were required, left the company. When she
15 left the company, she transitioned her duties to
16 another person at the company. Unfortunately, she
17 did not transition those duties.

18 Compounding that, we'd typically
19 receive an e-mail from the Commission saying, Hello,
20 it's time to file the report. Somehow that e-mail
21 stopped coming to us around the same time. Of
22 course, that should not be what causes us to

1 generate the report or file the report, but at any
2 rate, it's a simple matter of reports fell through
3 the cracks and no one realized it wasn't being
4 filed.

5 So when we received the notice that it
6 had not been filed over time, we corrected that and
7 there's a procedure in place to ensure that it's
8 been filed now.

9 I should point out that we're in 13
10 states, in good standing in all of those states. We
11 file the yearly report with the Commission on time
12 and we're in good standing as it -- vis-à-vis that
13 report. Again, it's just an issue of an important
14 report, but that report falling through the cracks
15 and not being filed over time.

16 JUDGE RILEY: And what is staff's response to
17 this?

18 MR. HARVEY: Well, Staff is pleased that the
19 matter has been addressed at the systematic level.
20 There is outstanding one matter and I think, you
21 know -- we accept the company's representation that
22 steps have been taken to make certain that reports

1 will be filed on an ongoing basis.

2 There are two, I think, outstanding
3 issues here which may be resolved with the company
4 and, perhaps, we ought to -- and I'll make clear
5 what those are.

6 JUDGE RILEY: Right.

7 MR. HARVEY: First of all, the Commission
8 order directs -- as part of this proceeding that
9 a determination be made whether the assessment
10 of any penalty is appropriate under the
11 circumstances.

12 Second, our review of the reports
13 indicates that the company has not been paying
14 certain customer credits, you know, to its customers
15 for failure to install in a timely manner, I think
16 it is.

17 I think, in light of the
18 circumstances, we'd be prepared to work with the
19 company on what an appropriate outcome was here.
20 And might seriously consider, you know, waiving
21 penalties assuming that -- or recommending the
22 penalties be waived provided that the customers'

1 credits issue was addressed. And I think, perhaps,
2 giving us a four week date to do that might be
3 appropriate.

4 I will say, I haven't discussed this
5 with the company. So, I mean, they may have
6 different views on what an appropriate outcome is.

7 JUDGE RILEY: Right.

8 MR. HARVEY: But, that would be Staff's
9 recommendation for a plan to go forward.

10 And I do note for the record that the
11 company has other applications pending as well here.
12 I mean, the issue of ongoing compliance is a -- you
13 know, certainly a matter that we have to consider
14 seriously.

15 JUDGE RILEY: And, Mr. Holt, would the
16 company be amenable to working with Staff to
17 rectify whatever Staff perceives as these
18 deficiencies --

19 MR. HOLT: Yes.

20 JUDGE RILEY: -- with regard to the bookkeeping
21 and the customers' credits?

22 MR. HOLT: Certainly.

1 JUDGE RILEY: What date did you have in mind,
2 Mr. Harvey?

3 MR. HARVEY: Today being the 4th, your Honor, I
4 suppose that gets us into about June if we're
5 going to -- if I could suggest 30 days, which would
6 put us on Thursday the 3rd.

7 JUDGE RILEY: June 3.
8 Does that work for you?

9 MR. HOLT: Yes.

10 MR. HARVEY: 10:30 or 10:00, your Honor?

11 JUDGE RILEY: 10:00 a.m.

12 MR. MURRAY: Matt --

13 MR. HARVEY: Yes.

14 MR. MURRAY: -- this is Russ.
15 I will not be available that week.

16 JUDGE RILEY: That week?

17 MR. MURRAY: That whole week.

18 MR. HARVEY: Would it work to have something on
19 the 8th of June at 11:00, your Honor? Is that a
20 date upon which you are available --

21 JUDGE RILEY: I have --

22 MR. HARVEY: -- and Mr. Holt is available?

1 MR. HOLT: I can be available at that time. The
2 8th at 11:00?

3 MR. HARVEY: Yes, that will be June the 8th.
4 Russ, does that work for you, and
5 Kathy?

6 MR. MURRAY: Yes, it works for me.

7 MS. STEWART: Fine.

8 JUDGE RILEY: And that will be for a status.

9 MR. HOLT: That's a Tuesday?

10 MR. HARVEY: That is a Tuesday.

11 And, Mr. Holt, what is your contact
12 information?

13 MR. HOLT: My phone number is 708-679-5050.

14 MR. HARVEY: 5050?

15 MR. HOLT: That's correct.

16 My e-mail is jh@mymti.com.

17 And I assume you have my mailing
18 address.

19 MR. HARVEY: I believe so.

20 JUDGE RILEY: They sent you the notices.

21 MR. HOLT: Someone's got it.

22 JUDGE RILEY: 65 East 16th Street and that's in

1 Chicago Heights.

2 MR. HOLT: Correct.

3 JUDGE RILEY: One question I do have about your
4 e-mail address. It has it down here as
5 jerry.holt@mymti.com.

6 MR. HOLT: It's changed over time.

7 JUDGE RILEY: It's jh.

8 MR. HOLT: It's jh, just a little easier.

9 JUDGE RILEY: Anything further we need to
10 discuss?

11 MR. HARVEY: I don't believe so with respect to
12 this matter, your Honor.

13 JUDGE RILEY: Anything further from you,
14 Mr. Holt?

15 MR. HOLT: No.

16 JUDGE RILEY: All right. I will leave it at
17 that. I'll let the parties get together and work
18 out what they can with regard to the issues raised
19 by Staff.

20 And we will reconvene on June 8th at
21 11:00 a.m. for status and we'll see where we are
22 then.

1 MR. HARVEY: Okay.

2 MR. HOLT: Thank you very much.

3 JUDGE RILEY: Thank you both.

4 (Whereupon, the above-entitled
5 matter was continued to
6 June 8, 2010, 11:00 a.m.)

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